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In the Supreme Court of the United States

OCTOBER TERM, 1936.

No. 716.

GREAT LAKES TRANSIT CORPORATION,
Petitioner,
AGAINST
INTERSTATE STEAMSHIP COMPANY
and
ATLANTIC MUTUAL INSURANCE COMPANY, *et al.*,
Intervening Underwriters,
Respondents.

STATEMENT FOR INTERSTATE STEAMSHIP COMPANY, A RESPONDENT, OWNER OF THE STEAMER WILLIS L. KING.

FREDERICK L. LECKIE,
THOMAS H. GARRY,
Counsel for Respondent,
Interstate Steamship Company.

THE GATES LEGAL PUBLISHING CO., CLEVELAND, OHIO

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The review in this Court (R. 142) is "limited to the second question presented by the petition for writ of certiorari," which question relates to a controversy between petitioner, as owner of the steamer George D. Dixon, and the insurers of cargo being carried on that steamer at the time of the collision between the Dixon and the steamer Willis L. King, owned by respondent, Interstate Steamship Company. The District Court filed opinion (R. 31) holding that the collision was due to mutual fault of the two steamers and that the damages should be divided. Thereafter (R. 42) a petition of intervention was filed by cargo insurers in which they asked to recover from the King the amounts paid and to be paid on account of cargo damage. To this intervening petition the owner of the King filed an answer (R. 101) asking that its rights be preserved and

that a decree be entered showing the King and Dixon mutually at fault and dividing the damages equally between the owners of the steamers, and also petitioned in the Dixon's owner to answer cargo underwriters' intervening petition. The interlocutory decree (R. 108) adjudged both vessels at fault for the collision and that all resulting damages should be divided equally between the two owners, and as to the insurance question raised by cargo underwriters, adjudged that the cargo underwriters should recover a moiety of the cargo damage from each of the steamers and their respective owners. The Court of Appeals affirmed both as to collision liability and as to the cargo insurance controversy.

Respecting the dispute between the owner of the Dixon and the cargo insurers, the owner of the King is not concerned, for it expects to make settlement on the basis of equal division of the total damages, including cargo damage. This position is recognized throughout the Dixon's Brief, as at page 16, where it is said:

> "The only parties interested in the question under review are petitioner and intervening underwriters. • • • The Interstate Steamship Company is not interested since • • • it has protected itself by asking that the cargo damages and costs 'be equally divided between the owners of said steamers' (R. 104) with the result that under the holding of mutual fault it can only be called upon to pay a moiety of the cargo damage in any event."

The Brief for cargo underwriters also starts with the statement (page 1) that by order of this Court the review is limited "to the second question presented by the petition for writ of certiorari," which is the cargo insurance question.

Therefore, as in the Court of Appeals, this respondent, Interstate Steamship Company, owner of the King, now

requests only that the resulting decree, based upon mutual fault of the two steamers, shall provide for an equal division between the two owners, of the total damages, including cargo damage, arising from the collision.

Respectfully submitted,

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THOMAS H. GARRY,

Counsel for Respondent,
Interstate Steamship Company.

April 6, 1937.